IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1251 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAGDISH VALJIBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

Mr. HL Jani, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 13/06/2001

ORAL JUDGEMENT

Heard learned advocate Ms. Subhadraben Patel for the petitioner and learned AGP Mr. Jani for the respondent State. In this petition under Article 226 of the Constitution of India, the petitioner has challenged

the impugned order of detention dated 3.11.2000 passed by the detaining authority under section 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985 ("the PASA Act" for short). The grounds of detention were communicated to the petitioner under section 9(1) of the PASA Act and the petitioner has been detained in the Sabarmati Central Jail as Class-II Detenu. The statements of the secret witnesses were recorded on 1.11.2000 and on the same day, statements were verified by the detaining authority and, thereafter, on3.11.2000, impugned order of detention has been passed by the detaining authority. As per the grounds of detention, the petitioner has been involved in the offences under section 379 of the IP Code. In this case, there are three detenues including the petitioner herein. Name of the petitioner is Jagdish Valjibhai Patel whereas the other co-detenues are (1) Ashokbhai Damjibhai Patel and (2) Ashwinbhai Muljibhai Patel. All these three cases are having identical facts and circumstances. The order of detention passed against the co detenu Ashokbhai Damjibhai Patel on 3.11.2000 has been revoked and in case of Ashwinbhai Muljibhai Patel, special civil application no. 4 of 2001 was filed challenging the detention which has been allowed quashing and setting aside the order of detention.

I have considered all these aspects of the matter. Learned AGP Mr. Jani has also agreed to the effect that both the cases are involving the identical and same facts and circumstances and, therefore, according to my opinion, impugned order of detention dated 3.11.2000 passed against the petitioner is required to be quashed and set aside without referring the observations made by this Court in special civil application no.4 of 2001.

Therefore, in view of the reasons recorded by this Court in its judgment dated 13.6.2001 in special civil application no.4 of 2001, this petition is required to be allowed.

For the reasons recorded hereinabove, the petition succeeds and the same is allowed. The order of detention dated 3.11.2000 is vitiated and resulted to quash and set aside. The detenu Jagdishbhai Valjibhai Patel who has been detained at the Central Prison, Sabarmati, Ahmedabad be set at liberty forthwith if he is not required in any other case. Rule is made absolute accordingly. No order as to costs. Direct Service is Permitted.

13.6.2001. (H.K. Rathod,J.)
Vyas